

REMARKS/DISCUSSION:

This Amendment A is being filed within one month after the shortened statutory period for response that ended on March 23, 2006. Accordingly, a Petition for a One-Month Extension of Time is made a part of the transmittal letter filed herewith.

By this Amendment A, claims 1-11 are pending in this application. Claims 1 and 6 have been amended. Support for the amendments is given at paragraphs 160 through 166.

Applicant has carefully studied the outstanding Office Action. This Amendment is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Rejection under 35 U.S.C. § 102(b)

Claims 1-11 stand rejected as being anticipated by Menzel et al (US Publication No. 2003/0078515). Applicants note that the Menzel publication was published less than 1 year before the date of application of the instant patent application. Applicants assume that the Examiner refers to a 102(e) rejection instead.

Applicants respectfully transverse the Examiner's rejection of the claims over Menzel because, according to Applicant's understanding, the Menzel reference neither teaches nor suggests the elements of the Applicants' invention. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See for example MPEP 2131.

With respect to claim 1, Applicants are unable to locate any disclosure within the Menzel reference relating to a "baseline audio stimulus representing a level of

patient consciousness as claim 1 is now amended (with similar amended language now found in claim 6). Reconsideration is requested.

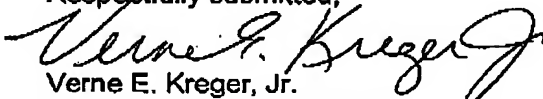
Conclusion

Applicant submits that in view of the discussion, the rejections under 35 U.S.C. §§ 102(e) have been overcome and that the invention is now patentable over the cited prior. The Examiner is respectfully requested to reconsider all rejections and pass this case to issue.

Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, which may be required to Account No. 10-0750/END-5034/VEK.

Respectfully submitted,


Verne E. Kreger, Jr.
Attorney for the Applicant(s)
Reg. No. 35,231

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
513 337-3295
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